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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2013-609

12 **CARLOS ANGEL SOTO**
13 **382 N. Lemon Ave.**
14 **Walnut, CA 91789**

A C C U S A T I O N

15 **Registered Nurse License No. 712148**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about September 10, 2007, the Board of Registered Nursing issued Registered
24 Nurse License Number 712148 to Carlos Angel Soto (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on November 30, 2014, unless renewed.
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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

7. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

....

REGULATORY PROVISIONS

8. Title 16, California Code of Regulations, section 1442, provides:

As used in Section 2761 of the code, "gross negligence" includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

1 9. Title 16, California Code of Regulations, section 1443, provides:

2 As used in Section 2761 of the code, "incompetence" means the lack of
3 possession of or the failure to exercise that degree of learning, skill, care and
4 experience ordinarily possessed and exercised by a competent registered nurse as
described in Section 1443.5.

5 10. Title 16, California Code of Regulations, section 1443.5, provides:

6 A registered nurse shall be considered to be competent when he/she
7 consistently demonstrates the ability to transfer scientific knowledge from social,
biological and physical sciences in applying the nursing process, as follows:

8 (1) Formulates a nursing diagnosis through observation of the client's
9 physical condition and behavior, and through interpretation of information
10 obtained from the client and others, including the health team.

11 (2) Formulates a care plan, in collaboration with the client, which ensures
12 that direct and indirect nursing care services provide for the client's safety,
comfort, hygiene, and protection, and for disease prevention and restorative
measures.

13 (3) Performs skills essential to the kind of nursing action to be taken,
14 explains the health treatment to the client and family and teaches the client
and family how to care for the client's health needs.

15 (4) Delegates tasks to subordinates based on the legal scopes of practice of
16 the subordinates and on the preparation and capability needed in the tasks to
17 be delegated, and effectively supervises nursing care being given by
subordinates.

18 (5) Evaluates the effectiveness of the care plan through observation of the
19 client's physical condition and behavior, signs and symptoms of illness, and
20 reactions to treatment and through communication with the client and health
team members, and modifies the plan as needed.

21 (6) Acts as the client's advocate, as circumstances require, by initiating
22 action to improve health care or to change decisions or activities which are
23 against the interests or wishes of the client, and by giving the client the
opportunity to make informed decisions about health care before it is
24 provided.

25 11. California Code of Regulations, title 16, section 1444, states:

26 A conviction or act shall be considered to be substantially related to the
27 qualifications, functions or duties of a registered nurse if to a substantial degree it
28 evidences the present or potential unfitness of a registered nurse to practice in a
manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

1 (a) Assaultive or abusive conduct including, but not limited to, those violations
2 listed in subdivision (d) of Penal Code Section 11160.

3 (b) Failure to comply with any mandatory reporting requirements.

4 (c) Theft, dishonesty, fraud, or deceit.

5 (d) Any conviction or act subject to an order of registration pursuant to Section
6 290 of the Penal Code.

7 **COST RECOVERY**

8 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licensee found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case.

12 **FACTUAL ALLEGATIONS**

13 13. Respondent was employed as a registered nurse in the Behavioral Health Unit at
14 Pacific Hospital of Long Beach located in Long Beach, California. Patient Robert P. was
15 admitted on February 25, 2011 with a history of suffering from a bipolar disorder to the
16 Behavioral Health Unit. On March 9, 2011, Respondent was on duty in the Behavioral Health
17 Unit. Respondent made provocative statements to Patient Robert P. and forced Patient Robert P.
18 into his room. After a "Code Grey" was called and while Patient Robert P. was being restrained
19 by Respondent and another nurse, Respondent lifted the patient's arm and held it in place while
20 hitting and striking Patient Robert P. with a closed fist on the left cheek bone approximately four
21 to five times. Respondent then grabbed the collar of Patient Robert P.'s shirt and "slammed"
22 Patient Robert P.'s head to the floor approximately two to three times. Patient Robert P.
23 sustained, among other injuries, a contusion to his right eye with abrasions under his right eye and
24 there was blood splatter. In interviews after the events in question, Respondent's version of the
25 facts was inconsistent with other witnesses' description of the events. Respondent was
26 subsequently terminated from the hospital.
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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Gross Negligence)**

3 14. Respondent is subject to disciplinary action for unprofessional conduct under section
4 2761(a)(1) of the Code in that during his assigned shift at Pacific Hospital of Long Beach on
5 March 9, 2011, Respondent was grossly negligent by failing to provide care which he knew or
6 should have known would jeopardize a patient's life, as is set forth in paragraph 13, as follows:

7 a. Respondent made inappropriate and provocative statements to Robert P., a patient
8 with a history of mental illness;

9 b. Respondent used extreme force and violence on Robert P.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct – Incompetence)**

12 15. Respondent is subject to disciplinary action for unprofessional conduct under section
13 2761(a)(1) of the Code in that during his assignment at Pacific Hospital of Long Beach,
14 Respondent demonstrated incompetence in his care and treatment of Patient Robert P. as he failed
15 to exercise the degree of learning, skill, care and experience ordinarily possessed and exercised
16 by a competent registered nurse, when he made inappropriate and provocative statements to a
17 patient with a history of mental illness and used extreme force and violence on that patient, as is
18 set forth in paragraph 13 above, which is incorporated herein as though set forth in full.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct)**


21 16. Respondent is subject to disciplinary action under Code section 2761(a), within the
22 meaning of title 16, California Code of Regulations section 1444(c), in that he made inappropriate
23 and provocative statements to a patient with a history of mental illness, used extreme force and
24 violence on that patient and failed to be forthcoming about the events in question, as set forth in
25 paragraph 13 above, which is incorporated herein as set forth in full.

26 **PRAYER**

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
28 and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 712148, issued to Carlos Angel Soto;
2. Ordering Carlos Angel Soto to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: February 12, 2013

for 
LOUISE R. BAILEY, M.Ed., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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